Comment Letter O057

O057

Merced County Farm Bureau

Attn: California High-Speed Train
Draft Program EIR/EIS Comments
925 L Street, Suite 1425
Sacramento, CA 95814

Fax:
(916) 322-0827
Attn: California High-Speed Train
Draft Program EIR/EIS Comments

SEP - 7 2004

August 30, 2004

The Merced County Farm Bureau would like to submit the following comments on the California High-Speed Train Draft Program EIR/EIS.

General Comments

This is a statewide project with statewide impacts. This statewide project has the potential to negatively affect the working landscape of agriculture in the state of California. It is the only place on earth that has the soil, water and climate to grow the diversity of crops we produce each year. We are a multi billion dollar industry for our region as well as our state.

The agricultural production in the San Joaquin Valley (Kern, Tulare, Kings, Fresno, Madera, Merced, Stanislaus, & San Joaquin Counties) is well over half of the total for California. It is an inadequate assessment to only measure the impact on farmland that will be lost through construction. The growth inducement that this project will have on the remaining farmland in the Valley needs to be studied and considered before this project is to move any further.

Statewide policies that encourage and reward smart growth policies is needed before we consider investing tax payers money into a project that will have a negative impact on our infrastructure (roads, schools, police/sheriff, fire, etc.) and our quality of life here in the San Joaquin Valley. We do not need to become the bedroom communities for southern California or the Bay Area. 0057-1

This project has the potential to speed that growth without the needed safeguards in place. The acknowledgement that our precious farmland is irreplaceable and should be mitigated with in-lieu fees is a necessity. The Land Evaluation and Site Assessment Model (LESA) from the State Department of Conservation should be used to evaluate the impacts and establish the fee so that land preservation policies could be implemented with adequate monetary resources.

We are also puzzled on why the Altamont was not studied as part of the Draft EIR/EIS. If it was not a feasible alternative, it should be shown to be not feasible with the documentation available to the public in the document.

(209) 723-3001 - FAX (209) 722-3814 - 646 South Highway 59 - P.O. Box 1232 - Merced, CA 95341
E-mail: mcfb@pacbell.net

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CEQA Requirements

Agricultural resources are a part of the existing physical environment subject to the California Environmental Quality Act ("CEQA"). Any proposed action by the California High Speed Rail Authority ("Authority") that would potentially affect agricultural resources should have been subject to an impacts analysis, an alternatives analysis to avoid or reduce impacts, and adequate mitigation for unavoidable significant impacts.

- Instead of conducting a proper analysis of the proposed project, the Authority continually deferred the required analysis to a "project-level" document.
- This results in segmentation of the project and denies the public a full view of the potential impacts of the project.
- The Draft Program EIR/EIS ("Draft PEIR/S") lacks a full discussion of potential measures to avoid, reduce and/or mitigate impacts on the existing environment.

CEQA requires agencies in every EIR to identify and focus on the possible significant environmental impacts of the project. Cal. Pub. Res. Code 21100(b)(1); 14 Cal. Code Regs. 15126, 15126.2. 0057-2

The very purpose of an EIR "is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. Cal. Pub. Res. Code 21002.1(a).

The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternative to such a project.

CEQA requires agencies to include in every EIR a "detailed statement setting forth . . . significant effects on the environment of the proposed project," including both direct and indirect effects, as well as "growth-inducing impact of the proposed project." Cal. Pub. Res. Code 21100(b)(1).

In addition, CEQA mandates that agencies analyze the cumulative impacts of a proposed project. 14 Cal. Code Regs. 15130(a).

Specific Inadequacies Within the Draft PEIR/S

Conversion of Farmland

The Authority's discussion of the impacts caused by the conversion of farmland to other uses is inadequate.

- **"Station Locations**: The selection of preferred station locations is **anticipated to be controversial**. The HST system would be limited in the number of stations it could serve compared to other rail transit systems. In this Program EIR/EIS, many more potential sites are being considered than would be practical for HST operations. Moreover, there are trade-offs in comparing the alternative station options. For example, **downtown terminals that promote high ridership and** 0057-3

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connectivity often have considerable construction issues and high cost." Emphasis added. (Pg. S-6)

- If station locations are anticipated to be controversial – they should be discussed at each and every level of analysis.
- Last sentence implies agency will be looking to locate stations in rural areas where costs will be lower. This will likely result in the conversion of agricultural resources and have growth-inducing impacts.

0057-3 cont

Direct and Indirect Impacts

CEQA requires the Authority to clearly identify and describe both direct and indirect significant effects of the project on the environment . . . giving due consideration to both the short-term and long-term effects. 14 Cal. Code Regs. 15126.2(a)

- The Authority simply ignores the secondary effects of the HST, namely, increase urbanization drawn to the Central Valley resulting in the conversion of farmland to other uses.

- "HST is the only alternative that **would improve the travel options available in the Central Valley** and other areas of the state with limited bus, rail, and air service for intercity trips." (Pg. S-8)
  - Fresno to LA = 2:23
  - Sacramento to San Jose = 1:53

  "The analysis shows that while the HST Alternative would have **potentially significant environmental impacts on resources, including** noise, biology, wetlands, and **farmlands**, the HST Alternative would have distinct benefits over the other alternatives in energy savings, reduced air emissions, and improved intercity travel conditions." (Pg. S-8)
  - Ignoring the fact that increased population in the Central Valley will increase emissions from local travel miles.

0057-4

- "The HST makes it that much easier for that growth to occur in the Central Valley thru the conversion of farmland." (Pg.3.7-6)

- "Existing Land Use: The existing land uses along the potential routes of the HST Alternative is predominantly agriculture, reflecting the Central Valley's heritage as one of the richest, most productive agricultural regions in the world (as discussed in Section 3.8, *Agricultural Lands*). Much of the land in the vicinity of the highway and rail corridors in the region proposed for improvements is cropland and orchards. Residential development comprises less than 10% of the land area, and commercial, service, and industrial uses together account for less than 10%." (Pg. 3.7-7)
  - Analysis needed for growth-inducing impact of HST.
  - Population is expected to increase by 46% (67 million) by 2020.
    - How does HST impact this projection?

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Cumulative Impacts

CEQA requires that every EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considered. 14 Cal. Code Regs. 15130(a).

It is well established that one overwhelming consideration of CEQA is that environmental considerations do not become submerged by chopping a large project into many little ones – each with a minimal potential impact on the environment – which cumulatively may have disastrous consequences. *Bozung v. Local Agency Formation Com.*, 13 Cal.3d 263, 283-84 (Cal. 1975).

- "Should the HST advance to the next stage of analysis, subsequent phases of project development would include project-specific environmental analysis for a segment or segments and station locations of the proposed HST system." (Pg. S-1)
  - These station locations are clearly related to the proposed Project, and in fact, are vital to the success of the Project. CEQA requires that the Authority perform an environmental analysis at this level.

- "The Authority and the FRA continue to consider HST alignment and **station options** and **have not identified a preference** among those presented in this Draft Program EIR/EIS." (S-8)
  - The Authority is not required to identify a preference, but is required to the proper analysis of each alternative.

0057-5

- "The significance of potential environmental impacts would need to be further determined at the next level of environmental review, and specific mitigation measures identified." (Pg. S-9)
  - Corridor travels right through prime agricultural region of the state, therefore, Authority is required to do some kind of analysis on impacts to agricultural resources.

- "The passenger cost for travel via the HST service would be lower than for travel by automobile or air for the same intercity markets." (Pg. S-15)
  - All of these features make it more desirable to commute from Central Valley to metro areas.

- "Will reduce "overall" air pollution." (Pg. S-15)
  - Great, but will likely increase and localize pollution in one of the areas of the state with the worst air pollution – San Joaquin Valley. Recently downgraded to "extreme" for ozone.
  - More local trips to shop, drop kids off at school, soccer practice, etc.
  - Loss of agriculture for development will decrease positive effects of crops on air.

- "The HST is **expected to result in slightly greater increase in population** than the other alternatives." (S-15)

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Comment Letter O057 Continued

- Higher density development is still development and still results in farmland conversion to urban – where is this likely to occur?
- Greater increase in population – where?
- This agency has no control over local growth decisions so should present worst case scenario – inform the public of potential impacts.

- "In the Central Valley, **one of the most active agricultural regions in the U.S.**, the right-of-way requirements of the HST could potentially impact a maximum of 2,096 to 3,002 acres. Compared to the trend of farmland loss in California of 49,700 acres per year, or nearly 845,000 acres projected to be lost by 2020, the right-of-way needs of the HST would represent **less than 0.4% of the total potential farmland loss**. Furthermore, the indirect effect of the HST on urban growth **would reduce conversion of farmlands by about 4,100 acres compared to other alternative**." Emphasis added. (Pg. S-15)
  - Comparing farmland loss from urbanization to farmland loss from one construction project – deceptive.

0057-5 cont

Growth-Inducing Impacts

CEQA requires agencies to discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. 14 Cal. Code Regs. 15126.2(d), 15126(d); Cal. Pub. Res. Code 21100(b)(5).

In analyzing whether a project will have growth-inducing impacts, courts consider whether the project has set in motion market forces that can create economic pressure for growth. *See Stanislaus Audubon Soc'y, Inc. v. County of Stanislaus*, 33 Cal.App.4th 144, 156-57 (Cal. Ct. App. 1995).

- Here, the growth-inducing force of cheaper, faster travel is clear. The market forces driving economic and population growth due to the Project required the Authority to analyze the growth-inducing impacts of the Project.

- "The number of passengers traveling intercity in California is forecasted to increase up to 63% over the next 20 years, from 155 million passengers to as many as 253 million passengers." (Pg. S-2)

- "By 2020, the proposed service would include approximately 86 weekday trains in each direction to serve the study area intercity travel market, with **64 of the trains running between northern and southern California** and the remaining **22 trains serving shorter distance markets**." Emphasis added. (Pg. S-4)
  - 22 trains serving shorter distance markets – where are stations?

- "All but 20 will make stops in the Central Valley to service commuters heading both north and south." (Pg. 2-25)

0057-6

"Forecasted ridership for this system varies between 42 and 68 million passengers (up to 10 million riders as long-distance commuters) for 2020." (Pg. 2-98)
- High growth-inducement for Central Valley towns with stations.

0057-6 cont

- "Most passenger service is **assumed** to run **between 6:00 a.m. and 8:00 p.m.**" Emphasis added. (Pg. S-4)
  - There should be no assumption as to running times – it should be part of the information provided in the Draft PEIR/S.
  - The hours of service are "commuter" hours. Commuter hours require commuters . . . commuters desire/require affordable housing to make their commute worth while. For Bay Area and LA workforce, affordable housing will be in the Central Valley. Therefore, it is likely that more conversion of farmland will result from the proposed Project.

- "HST: Statewide population will grow by **700,000 more than No Project**. **Urbanized areas will grow by 48%, 2,600 ac less than No Project**. **Transit-oriented development** around stations; planned growth consistent with **RTPs**; growth around Merced." Emphasis added. (Pg. S-14)
  - If urban areas growing less, does that means rural areas growing more – address?
  - Where are these additional 700,000 people going to reside? Is it safe to assume that since that figure is related to the Project, they will be commuters?
  - "Transit-oriented" development – discussion needed.

- "Compared to the state's potential total or overall farmland loss of nearly 845,000 acres by 2020, the HST Alternatives would each represent less than 0.4% of the total potential farmland loss." (Section 3.8.3)
  - In reaching the 0.4% figure, the Authority compares 845,000 acres of farmland lost to urban development to between 1, 327 – 2,445 acres of farmland used for the construction of the HST. (3.8-11)
  - The Authority should conduct a proper CEQA analysis including the growth-inducing impacts of this project and then compare that number to the growth-inducing impacts (845,000 acres) without the project.

- In its analysis of the Sacramento to Bakersfield Region, the Authority stated: "farmland severance impacts would potentially result, in addition to farmland conversion. While the precise amount of farmland potentially severed by the HST alignment options cannot be ascertained at this level of study, the HST alignment options on new alignments traversing farmland areas would have the potential to sever the vast majority of parcels traversed due to the curving nature of the alignments." (3.8-14)
  - The public cannot make informed decisions from the Authorities lack of analysis – as evidenced here.

Comment Letter O057 Continued

Mitigation
Lead agencies must adopt feasible mitigation measures in order to substantially lessen or avoid otherwise significant adverse environmental impacts. Pub. Res. Code 21002, 21081(a); Cal. Code Regs. 15002(a)(3), 15021(a)(2), 15091(a)(1).
To effectuate this requirement, EIRs must set forth mitigation measures that decision makers can adopt at the findings stage of the process. Pub. Res. Code 21100(b)(3); Cal. Code Regs. 15126(e), 15126.4.
Formulation of mitigation measures should not be deferred until some future time. Cal. Code Regs 15126.4(a)(1)(B).

- "Subsequent Analysis: If the HST Alternative is selected, subsequent multimodal access and circulation studies could be conducted at proposed station areas along proposed alignments as plans for alignments, stations, and operations are refined. Addt'l environmental analysis would be required . . . Station area circulation studies would be expected as part of project-level environmental documentation." (Pg. 3.1-24)
  - Stations, and their locations are essential to the success of this project – improper to defer analysis of impacts.
  - The Authority is advocating segmenting the proposed Project into smaller projects thus avoiding a full impact analysis.

- **Farmland** section Includes only area within 50 ft on each side of alignment centerline (100 ft total). (Pg. S-9):
  - No Project: Continued loss of farmland in California at rate of 49,700 ac per year from population growth and urbanization (845,000 ac by 2020).
  - HST: Right-of-way needs could potentially impact a total of 2,445 to 3,860 ac of farmlands. New corridor alignments thru farmlands could have potential severance impacts.
    - Does not discuss loss of farmland as No Project does.
    - Mitigation to avoid or reduce impacts – share existing rights-of-way to the maximum extent possible and avoid alignment options in established farmlands. Consider farmland preservation strategy.
    - The problem with this strategy is that it is only concerned with farmland lost to construction of the project – it does not address the growth-inducing impacts that are inevitable.

- "Potential impacts have been considered on a broad scale and on a system-wide basis . . . project-level review would analyze the potential for localized impacts." (Pg. 3.7-26)
  "No mitigation strategies were discussed - all discussion deferred to "project-level" review." (Pg. 3.7-26, 27)
  - CEQA requires more – segmentation of project avoids a full impacts analysis.

0057-7

- "Should the HST Alternative be selected, the subsequent environmental evaluations and project-level review of proposed segments and facilities would address the need for the following studies." (Section 3.7.6)
  - "Land use studies for specific alignment and station areas potentially impacted, including evaluation of potential land use conversion, potential growth, and potential community benefits."
    - CEQA intends EIR/EIS to provide information to the public – this documents defers its responsibility to provide any useful information regarding land use issues.

0057-7 cont

- "Potential inconsistencies with land use plans, and identification of general mitigation strategies." (Pg. 3.7-1)

- "Property: Assessment of potential property impacts is based on the types of **land uses adjacent to the particular proposed alignment**, the amount of right-of-way potentially needed due to the construction type, and the land use sensitivity to potential impacts." (Pg3.7-3)
  - Analysis of only lands adjacent to project is to narrow

- "Study Area defined for land use compatibility . . . is .25 miles on either side of the centerline of the rail and highway corridors. For the property impacts analysis the study area is narrower – 100 ft on either side of the alignment centerlines." (Pg. 3.7-5)
  - Analysis area is too narrow.

- Concerns are loosely addressed over the Diablo Range HST alignment options, particularly the two that go through Henry Coe State Park. Concerns have been expressed regarding potential impacts for Henry Coe State Park and potential impacts from bisecting areas north of the park. Also, mention concern over impacts along Orestimba Creek and Don Edwards San Francisco Bay National Wildlife Refuge. (S-6)
  - Is Henry Coe State Park located near agricultural resources?
  - Does Orestimba Creek run through farmland?
  - If so, mitigation strategy discussion is required.

- Deferring discussion of mitigation strategies until a later time fails to meet CEQA requirement.

Conclusion

- The Draft PEIR/S should fully discuss the impacts of the proposed project on agricultural resources.

- The Authority should include in the Draft PEIR/S additional mitigation measures to reduce impacts to agricultural resources as part of the proposed project.

0057-8

Comment Letter O057 Continued

We appreciate the opportunity to comment.

If analysis is put off until later it will be too late . . .
Impacts train will have already left the station!

0057-8
cont'd

Sincerely,

Diana Westmoreland Pedrozo
Executive Director

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Response to Comments of Diana Westmoreland Pedrozo, Executive Director, Merced County Farm Bureau, August 30, 2004 (Letter O057)

O057-1

The potential growth inducement that the HST and Modal alternatives could have on farmland was investigated and summarized in Section 5 of the Program EIR/EIS. Please see standard response 5.2.1 and standard response 5.2.5 and the responses to Comment Letter O047 (American Farmland Trust) in regards to the potential for growth inducement. Please see standard response 2.1.12 in regards to the selection of station locations and transit oriented development. Please see standard response 2.18.1 in regards to the Altamont Pass.

O057-2

Acknowledged that CEQA contains procedures for addressing the environmental impacts of proposed projects and contains provisions addressing agricultural land.

O057-3

Please see standard response 2.31.4 and standard response 2.1.12. Station locations are discussed in the program EIR/EIS. Please see Chapter 6A for details of the preferred alignment and potential station locations and the Summary of the Final EIR/EIS.

O057-4

Please see response to Comment O057-1. The quote listed for page 3.7-6 of the Draft Program EIR/EIS was not found.

O057-5

Cumulative Impacts were presented in Section 3.17 of the Draft Program EIR/EIS. Please see standard response 3.17.1 in regards to the cumulative impact analysis. Please see standard response 3.15.2 and standard response 3.15.13 regarding the general level of detail in this Program EIR/EIS and the anticipated more detailed project-level, Tier 2 studies. Please see response to Comment O042-1 for more information on the purpose of the Program EIR/EIS and the subsequent studies. The co-lead agencies believe the No Project, HST and Modal alternatives have been properly evaluated at a program level of review. The Program EIR/EIS evaluates potential impacts to agricultural resources (please see Sections 3.7 and Section 5 of the Program EIR/EIS). Please see response to Comment O057-1 in regards to potential growth inducement. Please refer to Section 3.3 of the Program EIR/EIS for potential air quality impacts (refer to 3.3.1D for the methods for "Local Air Quality Impacts").

O057-6

Please see response to Comment O057-1.

O057-7

Please see response to Comment O046-08 in regards to appropriate mitigation measures and strategies for consideration in the program review. Further clarification and description of the design features of the proposed HST system have been added to the Final Program EIR/EIS in Chapter 3 (for each environmental resource area). Please see response to Comment O057-5 in regards to a "program" level of detail. In Section 3.7, the HST and Modal Alternative are compared against the No Project Alternative, the potential impacts for the HST and Modal alternatives are in addition to the No Project Alternative. The co-lead agencies believe that the study area defined for property impacts is appropriate for this program level document. Wider study areas were used for other resource topics (such as land use compatibility and noise). Options through Henry Coe State Park have been eliminated from further evaluation (please see standard response 6.3.1). Portions of Orestimba Creek traverse farmlands considered in the farmlands impacts analysis. Potential impacts,

avoidance, minimization, and only if necessary, mitigations will be considered in further evaluation.

O057-8

The co-lead agencies believe potential impacts of the proposed HST Alternative have been adequately discussed at a program level of detail. Should the HST proposal move forward, more detailed project specific studies will be required. Please see response to Comment O046-08 in regards to mitigation measures.

As desribed in the Program EIR/EIS, the objectives used to guide the description of alternatives for the program review include minimizing environmental impacts and maximizing the use of existing transportation corridors. As a result, less costly new corridor design options through the Central Valley were eliminated from further evaluation. Please refer to standard response 2.25.1. Based on the data provided in the Draft EIR/EIS and agency, organization and public comments, the Authority believes it has identified a preferred HST alignment and station locations that best meet the purpose and need and program objectives. Please see Chapter 6A for details of the preferred alignment and potential station locations and the Summary of the Final EIR/EIS. Please also refer to standard response 2.1.12 in regards to the selection of potential stations and transit oriented development around stations.

Comment Letter O058

O058

Merced County High-Speed Rail Committee

August 29, 2004

AUG 31 2004

Mr. Joseph Petrillo, Chairman
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Dear Chairman Petrillo and Members of the Board:

I am pleased to submit this letter of support for the draft program EIR/EIS and the analysis and studies that identified high-speed trains as the preferred system alternative to address the future transportation needs of California.

As chairman of the Merced County High-Speed Rail Committee, I represent a diverse spectrum of backgrounds, professions and perspectives that make up our community based committee. The Merced County High-Speed Rail Committee was formed by Merced County as a citizen's committee to consider the environmental impact report/statement (EIR/EIS) commissioned by the California High-Speed Rail Authority and the Federal Railroad Administration and to advocate for the implementation of the proposed statewide high-speed rail system. The committee reviewed the draft EIR/EIS to examine potential opportunities for service to Merced County and for the County to realize the economic benefits from this project. The committee also reviewed the direct and indirect impacts of the proposed high-speed rail project as identified in the draft program EIR/EIS.

During the review of the proposed high-speed rail alternative routes, the committee looked at several factors, including the cost for construction, safety, air pollution, time, reliability, agricultural impacts, costs to ride the system, travel time, rail access, freeway access, connectivity to local transportation systems, competition with the airline industry, traffic congestion, environmental and land use impacts. The Merced County High-Speed Rail Committee reviewed the previously mentioned factors based on the three scenarios outlined in the draft EIR/EIS including:

- No project alternative: which operates on the premise that the State will continue to build it's existing transportation system with planned improvements;
- Modal alternative: which operates on a similar premise of the State continuing to build it's existing transportation system but with expansions to existing highway and air travel systems;
- High-speed train alternative: which builds a statewide high-speed transportation system capable of travel at 220 mph.

After the evaluation of these scenarios, the committee unanimously endorses the high-speed train alternative. The committee also evaluated the proposed route options and unanimously supports the northern Diablo route alternative, with the caveat that the development of the specific route thoroughly take into consideration local agricultural land of importance. We believe that with various tunneling techniques and an inclusive public process, a high-speed system can be built sensitive to agricultural and environmental concerns. O058-1

The Merced County High-Speed Rail Committee advocates for the route that would best serve the Merced community and the route alternative that would result in a construction and maintenance facility housed at Castle Airport, Aviation and Development Center (CAADC), previously known as Castle Air Force Base. It is clear that a construction and maintenance facility will need to be located in the Central Valley region to begin the construction of the first phase of the high-speed rail system. If the northern Diablo alternative route is selected by the Authority, the Castle facility is perfectly located where the proposed route intersects with Highway 99 and can meet the needs of the project. O058-2

Recognizing that the high-speed rail system will be built through the Central Valley, the committee has worked diligently to educate local residents and community representatives about the high-speed rail public input process. The committee was present at all public hearings, representing diverse perspectives, and it continues to strongly support the usage of CAADC in the development of the high-speed rail system.

Our committee members are greatly concerned about the qualify of life in the Merced region and the greater Central Valley and the increasingly poor air quality. The committee has discussed the upcoming population growth projections and believes that a high-speed train system, coupled with smart long term planning can contribute to improving the environmental, economic and social quality of life for our region. The committee believes that the success of the high-speed train system is dependent on the involvement of local communities, urban and rural, in the decision making process.

The attached proposal provides an overview of Merced County and CAADC. Additionally this proposal outlines the benefits of locating the construction and maintenance facility at CAADC.

Comment Letter O058 Continued

The Merced County High-Speed Rail Committee respectfully requests that the California High-Speed Rail Authority consider the CAADC public owned site in its upcoming decision of where to locate the high-speed rail maintenance and construction facility. Our committee thanks you for your work and leadership toward making a statewide high-speed rail system a reality for Californians.

Sincerely,

Dr. Lee Boese Jr., on behalf of the Merced County High-Speed Rail Committee

Cc: Congressman Dennis Cardoza
Congressman George Radanovich
California Senator Jeff Denham
California Assembly Member Barbara Matthews
Merced County Board of Supervisors

Response to Comments of Dr. Lee Boese, Jr., Merced County Highspeed Rail Committee, August 29, 2004 (Letter O058)

O058-1

Acknowledged. Please see standard response 6.3.1.

O058-2

Acknowledged. Please see standard response 2.35.1.

Comment Letter O059

O059

The Nature Conservancy
SAVING THE LAST GREAT PLACES ON EARTH

California Regional Office
201 Mission Street, Fourth Floor
San Francisco, CA 94105

tel [415] 777-0487
fax [415] 777-0244

nature.org
nature.org/california

August 30, 2004

Chairman Joseph E. Petrillo
California High Speed Rail Authority
Attn: California High-Speed Train Draft Program EIR/EIS Comments
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Comments on Draft EIR/EIS for the proposed California High-Speed Train System

Dear Chairman Petrillo and Members of the California High-Speed Rail Authority,

These comments on the Draft EIR/EIS for the proposed High-Speed Train System are submitted by The Nature Conservancy ("TNC"), a global conservation organization with approximately one million members. Since 1951, TNC has protected, with partners, over 117 million acres around the world. Our mission is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive.

In pursuing this mission, the Conservancy relies on a science-based approach both to identifying key threats to important natural communities and to developing effective strategies for their conservation. Since its inception, the Conservancy's primary emphasis has been on on-the-ground projects that produce tangible results. In that context, we have a long track record of working with diverse partners to achieve innovative, cost-effective, ecologically sound outcomes in the context of ongoing economic activity.

A project as massive as the High Speed Train (HST) will most definitely loom large on the landscape of California. The Conservancy's interest is in determining the likely impact on California's valuable natural resources and unique suite of ecological systems. From our perspective, there are several key questions that need to be addressed at this stage of the environmental review process. These include: what are the likely short-term, long-term and cumulative impacts on species and natural communities from the HST relative to those of other competing transportation options? What are the relative impacts of reasonable alternative alignments and station locations for HST? If the project is built, will unavoidable adverse impacts be minimized and fully mitigated? The Draft EIR/EIS ("DEIR/S" or "Draft") should provide answers to these questions, among others.

However, while the vision of an HST system for California is a compelling one, the Draft does not provide enough information on either impacts to biological resources or associated mitigation strategies for us to fully evaluate the environmental costs and benefits of a HST system relative to other transportation options. Nor does the DEIR/S provide a thorough and consistent analysis of the potential impacts of various alignment and station options within the HST alternative. Throughout the DEIR/S, detailed analyses that are essential to gauge environmental impacts are consistently deferred to a later project-level review. Yet, cumulative impacts to resources will not occur at the project scale, but at the scale of the whole system and should have been seriously analyzed at this point in the process.

TNC believes that in the Draft, the California High-Speed Rail Authority ("CHSRA") and the Federal Railroad Administration ("FRA") do not appear to have met their legal obligations under the California

Environmental Quality Act ("CEQA"). Public Resources Code Section 21000 et seq., the CEQA Guidelines, California Code of Regulations, title 14, section 15000 et seq. ("CEQA Guidelines"), and the National Environmental Policy Act ("NEPA"), 42 U.S.C 4321; 40 C.F.R. 1500.1. Given the massive scope of a project like this, the DEIR/S must analyze a full range of alternatives, including an analysis of the reasonably foreseeable direct, indirect and cumulative impacts associated with each alternative. It is essential that the most complete and current data and information be analyzed consistently for each alternative and that reasonable mitigation options are presented for unavoidable impacts.

The true cost of this project will be measured not only in dollars, but also in terms of adverse impacts to other resources of value to residents of California and beyond. In order to make a sound, well-informed decision about whether and how best to construct a public project of this magnitude, it is essential to understand as fully as possible the key trade-offs involved. As noted, the current Draft does not provide sufficient information about the nature of such trade-offs with respect to California's rich and unique natural heritage.

The Conservancy urges that the document be substantially revised to incorporate additional relevant information necessary to ensure the best possible factual foundation for subsequent decisions about this potentially enormous public investment in new infrastructure.

Detailed comments follow. TNC's comments are organized under the following major headings to reflect our primary concerns with DEIR/S:

I. Discussion of Impacts to Existing and Priority Biodiversity Conservation Areas
II. Incomplete Project Description
III. Inadequate Analysis of Direct, Indirect and Cumulative Impacts of HST system
IV. Inadequate Discussion of Mitigation Alternatives

I. Discussion of Impacts to Existing and Priority Biodiversity Conservation Areas

Construction and operation of a HST train system, as described in the DEIR/S, would impact significant natural resources throughout the state. The proposed routes will traverse numerous areas that have been identified as high priority for conservation action by public agencies and private organizations. Considerable public investments have been made to protect and manage many of these places to ensure their continued contribution to our state's natural heritage. While the DEIR/S does not present enough information to fully evaluate the ecological impacts of the proposed HST, overall likely impacts and several specific problem areas lead TNC to question whether the proposed project represents the least environmentally damaging alternative.

A. Potential Impacts to Statewide Conservation Priorities Identified by The Nature Conservancy and Partners

Through our practice of *Conservation by Design*, we systematically identify and prioritize areas containing the most irreplaceable natural resources and representative ecosystem types within an *ecoregion*. An ecoregion is an area with similar climatic, physiographic and biological communities. These priority areas are called our *portfolio conservation areas* and represent the framework and context for our conservation action. O059-1

Each portfolio conservation area is selected for the habitat that it contains for *conservation targets*-species, communities or ecological systems. After identification of these areas, we define our project areas in an ecoregion by integrating conservation opportunities with biodiversity value and the status of

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threats to targets. Project areas, or large, functional landscapes, are the predominant scale of our conservation work and are the organizing geography for our investment in land and water conservation.

As part of TNC's internal assessment of potential impacts from a HST system, we conducted an analysis to determine what portfolio areas and targets are near (two miles) the proposed routes. Our GIS analysis of the proposed HST alignments shows that 64 portfolio conservation areas and an associated 270 targets come within two miles of the alignments. A HST system could jeopardize the biodiversity values for which these areas were selected as priority conservation areas. In addition, seven of our projects will be directly traversed by or are within two miles of proposed "at-grade" construction outside of existing rail alignments. These projects include (see the attached map):

- Cosumnes River
- Delta
- L.A.–Ventura
- Merced Grasslands
- Mount Hamilton
- San Diego County
- Santa Ana Mountains

The Nature Conservancy either owns or has helped to conserve over 75,000 acres of conservation land within two miles of the proposed alignments. Many of these areas harbor listed species and contain the highest quality habitat for rare and sensitive species.

For example, impacts from the Tunnel Under Park, Minimize Tunnel or Northern Tunnel option would be devastating to the remote and biologically important areas in the northern Diablo Range. In fact, the ecological impacts in TNC's Mount Hamilton project area would likely alter the ecosystem values so much that they could not be mitigated.

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The Mount Hamilton project area is an intact landscape of oak woodlands, Central California sycamore alluvial woodlands, stream-fed canyons and pine-topped ridges. The project area comprises 1.2 million acres (1,875 square miles). To date, the Mount Hamilton Project has protected roughly 81,000 acres through acquisition or easement. The construction and operation of a HST system through this area would irreparably damage unique populations of native species and ecological functions by increasing habitat fragmentation, disrupting aquatic systems, and reducing habitat quality for many species due to noise, light and vibration. It is also likely that there would be increased pressure for a highway and associated infrastructure through the heart of the Diablo Range following completion of the HST system to provide increased access to San Jose from the relatively less expensive homes in the Central Valley.

Below, we present ecological profiles of select areas and resources that would potentially be severely impacted by construction and operation of a HST system.

Profile Area: Orestimba Creek

The Minimize Tunnel and Tunnel under Park options route the train along Orestimba Creek on the eastern side of the Diablo Range in Stanislaus County. Orestimba Creek supports one of the most important stands, ranked second best, of Central California sycamore alluvial woodlands.[1] This rare habitat exists only in California, and the Orestimba stand has been a target for protection efforts by the state and federal governments as well as TNC[2]. Central California sycamore alluvial woodlands are dependant upon a narrow range of hydrologic and geologic conditions for reproduction, growth, and survival. Alteration of the creek's flood regime or groundwater conditions are likely to impact seedling survival and root growth. Increases of fine sediments which may result from erosion during construction or operation of the HST can impact the soil/substrate profile creating conditions where willows and cottonwoods can out-compete sycamores, threatening the persistence of this community. The unique suite of circumstances required for sycamore recruitment and survival makes restoration of this community following such a substantial disturbance unlikely.

The alignment options through the northern Diablo Range may also severely negatively impact the San Joaquin kit fox (*Vulpes macrotis mutica*) which is federally listed as endangered and state listed as threatened, the federally threatened California red-legged frog (*Rana aurora draytonii*), and the proposed federally threatened California tiger salamander (*Ambystoma californiense*) that are known to reside in and migrate through the area. Protection of land along the eastern side of the Diablo Range was sought in part to protect the kit fox migration route that connects sub-populations in the north with the core Ciervo/Panoche population. The HST may fragment and isolate these sub-populations, reducing gene flow and potentially impeding recovery of the species.

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B. Potential Impacts to Public Investments in Conservation Areas

The proposed project traverses numerous protected areas that represent significant public conservation investments to support high value natural resources. These areas include state parks, state ecological reserves, University of California preserves, National Forests, county parks, and NCCP preserves, as well as several U.S. Department of Defense lands and Bureau of Land Management lands. TNC has identified over 75 individual conservation and open space areas that maintain some level of biodiversity within 2 miles of the proposed HST that may be impacted. The natural values these areas support are widely variable, but given their proximity to the rail line, a detailed analysis of the impacts associated with the larger areas is necessary. Some of the more significant properties include (see attached for full list):

- Camp Pendleton Marine Corps Base – Department of Defense
- Henry W. Coe State Park – Department of Parks and Recreation
- Los Padres and Angeles National Forests – U.S. Forest Service
- San Luis National Wildlife Refuge Complex (Grasslands Ecological Area) – U.S. Fish and Wildlife Service
- San Diego National Wildlife Refuge – U.S. Fish and Wildlife Service
- San Dieguito Lagoon Ecological Reserve – Department of Fish and Game
- Santa Margarita River Ecological Reserve – Department of Fish and Game, BLM, TNC
- Cosumnes River Preserve- TNC, DFG, DWR, BLM, others

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A HST system could jeopardize the biodiversity values that are maintained on these properties. Many of the potential impacts to these areas will be discussed in more detail later, but they include impacts to roadless areas and designated Wilderness, wildlife habitat connectivity and suitability, natural process necessary to maintain biodiversity, and wetlands and vernal pools. Many of these areas have ongoing research that would be seriously impacted by more than a decade of construction activity and ongoing HST operation.

[1] California Department of Fish and Game. The Definition and Location of Central California Sycamore Alluvial Woodland. (1997)

[2] The U. S. Bureau of Reclamation provided funding for the protection and restoration of the Romero and Simon-Newman Ranches, and has identified the same area as a potential addition to the National Wildlife Refuge System. The Department of Water Resources protected the area downstream of Simon-Newman Ranch for mitigation purposes.

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Profile Area: Grasslands Ecological Area
As the Pacheco Pass Alignment passes north of Los Banos, it bisects the Grasslands Ecological Area (GEA). Encompassing approximately 180,000 acres, the GEA is the largest wetland complex in California and contains the largest block of contiguous wetlands remaining in the Central Valley.[3] The GEA is designated by the U.S. Fish & Wildlife Service as an area for priority purchase of public easements for wetland preservation and enhancement. The GEA includes federal wildlife refuges, a state park, state wildlife management areas and the largest block of privately managed wetlands in the state. The GEA also includes a large and growing portfolio of federal, state and private conservation easements. Through 1998, conservation easements had been acquired on over 64,000 acres at a total cost of over $28 million.

The GEA is of considerable importance because it preserves a variety of habitats important to the maintenance of biodiversity on a local, regional, national and international scale. It has been estimated that 30 percent of the Central Valley migratory population of waterfowl use this area for winter foraging.[4] The GEA is a major wintering ground for migratory waterfowl and shorebirds of the Pacific Flyway and the Western Hemisphere Shorebird Reserve Network has designated the GEA as one of only 22 international shorebird reserves in the world.[5] Over a million waterfowl are regularly found in the GEA during the winter months. The GEA also provides habitat for more than 550 species of plants and animals, including 47 plant and animal species that are endangered, threatened or candidate species under state or federal law.

Profile Area: Santa Clara River
The Bakersfield – L.A. HST eastern alignment that runs through Soledad Canyon and parallels the upper Santa Clara River would potentially impact this river and the associated biological communities. This river system is a priority for conservation for TNC's L.A.-Ventura project. The Santa Clara is the one of two free-flowing rivers in southern California and is part of the Southern California Steelhead Evolutionary Significant Unit (ESU) that is listed as Endangered by National Marine Fisheries Service. Additional federally-listed listed species that occur in this area include the Unarmored threespine stickleback (*Gasterosteus aculeatus wiliamsoni*), Slender-horned spineflower (*Dodecahema leptoceras*), and Santa Ana sucker (*Catostomus santaanae*). Because of the multiple values of this river system and the ongoing stress to the biological systems, the Santa Clara is undergoing a River Enhancement and Management plan. It is critical that the analysis of the HST impacts in this area factor in the conservation recommendations from this planning process and any conservation planning for listed species.

The California Wild Heritage Campaign has located areas suitable for federal Wilderness designation in portions of the adjacent Angeles National Forest, including the Magic Mountain and Pacifico potential Wilderness areas. It is possible that the associated noise from HST may affect the wilderness qualities of this area and affect their ability to be designated under the Wilderness Act.

The Santa Clara River itself provides east-west connectivity for fish and riparian-dependent birds and mammals, while the canyon also represents an important north-south linkage between two large blocks of the Angeles National Forest for wide-ranging animals that prefer remote habitat such as mountain lion. Construction and operation of the HST system through this area would potentially fragment these wildlife habitat connections.

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[3] Grasslands Water District, Land Use and Economics Study: Grasslands Ecological Area (July 2001)
[4] U.S. Bureau of Reclamation, Final NEPA EA, Refuge Water Supply Long-Term Water Supply Agreements (January 2002)
[5] Fredrickson, Leigh H. and Laubhan, Murray K, Land Use Impacts and Habitat Preservation in the Grasslands of Western Merced County, CA (February 1995)

II. Incomplete Project Description

TNC believes that under both CEQA and NEPA, an EIR/S must provide a comprehensive description of all of the related aspects of a project. A project description for an EIR must contain a "general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities." CEQA Guidelines Section 15124(c)

A. Lack of Description and Analysis of Construction Activities for Tunneling
The most significant omission from the project description is the lack of any discussion of the construction activity and related impacts. It is likely that construction-related environmental impacts could be as, or more, significant than operational impacts from a HST especially for areas that would require new track. The DEIR/S recognizes that construction impacts would be potentially significant, yet does not provide any details on the timing, duration, or engineering and defers any analysis of construction activities to project-level analysis.

> Because the construction period would last at least 10 years and the miles of corridor under construction at one time would extend across the state, these physical impacts would potentially be significant. The potential impacts of this construction activity would be addressed in more detail during project-level analysis. (DEIR/S at 7.2)

The Draft states that the "study area was defined to encompass both direct and indirect construction-related and operational impacts" (DEIR/S at 3.15-2), yet readers can only guess as to what those construction-related impacts might be, because there is no meaningful discussion of them anywhere in the DEIR/S. For example, the option of running a HST through tunnels under sensitive areas (e.g. Henry Coe State Park) is often cited in the DEIR/S as an effective way to avoid surface-level impacts, but there is no description of the impacts of the construction of these tunnels in sensitive natural areas. Issues related to tunneling that we would like to see addressed in a revised DEIR/S include:

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1. *Water use for tunneling and impacts on water quality and groundwater flow*
This issue is mentioned in at least two separate places in the DEIR/S: "Shallow groundwater at potential tunneling sites in the mountain regions (Diablo Range and Pacheco Pass) could be affected by dewatering that in turn could affect groundwater levels." (DEIR/S at 3.14-12)

and also

> As with the Modal Alternative, potential direct impacts on groundwater resources from the HST alternative would be limited to infrequent shallow groundwater occurrence where dewatering may be necessary during construction of at- and above-grade structures (e.g., support columns) and for tunneling portals." (DEIR/S at 3.14-14)

Yet, there is no information on the amount of water to be used for tunneling, where it would be diverted from, or how its disposal would impact aquatic biological resources. This needs to be addressed in a revised DEIR/S.

2. *Tunnel effects on groundwater flow*
There is no discussion of how groundwater flow would be affected by the tunnels in the HST system post-construction. This needs to be addressed in the DEIR/S as this has bearing on indirect and cumulative impacts to wetlands, vernal pools, surface water, and other aquatic ecosystems including threatened, endangered, and sensitive species.